

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

TUAN V. MAI,

Plaintiff,

v.

CV NO. 19-441 CG

ANDREW SAUL, Commissioner of the
Social Security Administration,

Defendant.

**ORDER GRANTING UNOPPOSED MOTION FOR ATTORNEY FEES
PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT**

THIS MATTER is before the Court on Plaintiff's *Stipulated Motion for Attorney Fees Pursuant to the Equal Access to Justice Act* (the "Motion"), (Doc. 25), filed May 7, 2020. The Court, having reviewed the Motion and noting it is unopposed, finds the Motion is well-taken and shall be **GRANTED**.

IT IS THEREFORE ORDERED that attorney fees are awarded under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d), payable to Plaintiff but mailed to Plaintiff's attorney in the amount of **\$5,000.00**. See *Astrue v. Ratliff*, 560 U.S. 586 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED.



THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE